IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3669 OF 2005
IN
CRIMINAL APPEAL NO. OF 2005

The State of Maharashtra .. Applicant.

Vs.

Mahadev Vishnu Suryawanshi ..Respondent.

Mr. S.R. Shinde, APP for the Applicant.
Mr. B.R. Patil for the Respondent.

CORAM : R.S. MOHITE, J.

DATED : 28TH FEBRUARY, 2006.

P.C.:

1. This is an application for leave to Appeal. The impugned judgment has been passed in Special Case No.7/2002 by the learned Special Judge, Sindhudurg-Oras on 20.02.2004, acquitting the respondent/ orig. accused for the offences punishable under sections 7, 13(1) read with 13(2) of the Prevention of Corruption Act. On perusal of the said judgment and the order, it is seen that the same is based on cogent and acceptable reasons. The accused was serving as a government servant. He is alleged to have demanded a bribe of Rs.45,000/- for passing the bills of the complainant, who was contractor. The FIR, however, recorded that the accused had agreed to accepted part payment in cash and the

remaining payment by cheque. The payment is sought to have been made at the time of the trap, by putting Rs. 5000/- in a bag. It was the prosecution case that the accused accepted the said bag and kept it under his arm pit. No anthracene powder has been found on the person or clothes of the accused person though the front part of the bag had anthracene powder on it. The court has disbelieved the prosecution case that the money was accepted by the accused, without making any enquiry as to how much money has been brought. The complainant has also admitted in the cross-examination that the trap was completed at 7 p.m. when there was darkness in the spot and that the FIR was not lodged on that day and lodged in the next day morning. In my opinion, the view taken by the learned trial court is a possible view. Hence, the leave to appeal is refused.

2. The application is dismissed.

28.2.06 (R.S.MOHITE,J)

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